

against her husband, which she cannot enforce in a Court of law during his life, a less period than twenty years will not bar it on the rule of lapse of time; for a wife declining to sue her husband cannot be said to be guilty of gross *laches* or unreasonable acquiescence, *Bowie v. Stonestreet*, 6 Md. 418.

Limitations where no administration.—It is also a general rule that limitations do not run where no administration has been granted, as to which the leading case is *Fishwick v. Sewell*, 4 H. & J. 393;⁴¹ see also *Haslett v. Glenn*, 7 H. & J. 17; *Parker v. Fassett*, *ibid.* 337; **Raborg v. Don-* 459
aldson, 26 Md. 312. This, however, is not to be understood, as without reference to the time of the accrual of the cause of action, because the operation of the Statute cannot be suspended by the death of the party against whom it has commenced to run in his life-time,⁴² and it is a familiar principle that a suit abating and not revived takes no time out of the Statute, *Ruff v. Bull*, 7 H. & J. 14; *Young v. Mackall*, 4 Md. 36; *Stewart v. Spedden*, 5 Md. 433; see, however, *Stewart v. Carr*, 6 Gill, 430. But an exception to the rule equally well recognized is where the creditor is the executor or administrator, *State v. Riegart*, 1 Gill, 1; *Semmes v. Young*, 10 Md. 242; *Brown v. Stewart*, 4 Md. Ch. Dec. 363; *Spencer v. Spencer*, *ibid.* 456. So also where an administrator fails to return part of the personal estate in his inventory, limitations will not bar the suit of a representative of the intestate against him, *Scrivener v. Scrivener*, 1 H. & J. 743.

Effect of fraud.—It was formerly the law that the effect of fraud in preventing the operation of the statute must be referred to a Court of Equity,⁴³ and could not be replied to a plea of limitations at law, *Negro Franklin v. Waters*, 8 Gill, 322,⁴⁴ where a replication of this kind was attempted to be supported, (see, however, *Belt v. Marriott*, 19 Gill, 331, where there is a *dictum* that trover is barred by limitations only from the discovery of the conversion). In the *Imperial Gas Light Co. v. the London Gas Light Co.*, 23 L. J. Exch. 303, the Lord Chief Baron observed, that the statute expressly pointed out certain cases in which it was not to run, that is, the cases of persons under certain species of incapacity, but it does not make any exception in favour of persons labouring under any other incapacity; and he said, "we cannot graft upon the statute the exception here sought to be grafted on it, namely, where by the fraud of the defendant the plaintiff has been prevented from asserting his rights within the time prescribed by law. I believe if we were to hold the legislature as

⁴¹ Affirmed in *Smith v. Dennis*, 33 Md. 442; *Rockwell v. Young*, 60 Md. 566. Cf. *Kopp v. Herrman*, 82 Md. 339.

So limitations do not run until there is a person in being competent to sue. *Dempsey v. McNabb*, 73 Md. 433.

⁴² *Brooks v. Preston*, 106 Md. 693; *Gump v. Sibley*, 79 Md. 169; *Fink v. Zepp*, 76 Md. 185; *Maurice v. Worden*, 52 Md. 295.

⁴³ Cf. *Wood v. Carpenter*, 101 U. S. 135, where it was said that there was no trace of the doctrine in the Statute of James and that it had been imported from equity.

⁴⁴ *Wear v. Skinner*, 46 Md. 265, 266.